



March 8, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Somos, Inc. Petition for Declaratory Ruling Regarding Registration of Text-Enabled Toll Free Numbers, WC Docket No. 95-155, WT Docket No. 08-7

Dear Ms. Dortch,

The Ad Hoc Telecommunications Users Committee (“Ad Hoc” or “Committee”) urges the Commission to grant the Petition for Declaratory Ruling filed by Somos, Inc., referenced above (the “Petition”), for the reasons detailed in the paragraphs below.

For over 35 years, Ad Hoc has represented enterprise customers in numerous proceedings before this Commission. As “Fortune 500” companies, Ad Hoc members are among the nation’s largest and most sophisticated corporate buyers of information technology (“IT”) and communications services. Committee members come from a broad range of industry verticals – including banking, construction, financial services, insurance, information services, logistics, manufacturing, payment processing, and systems integration – and they maintain tens of thousands of business premises in every region of the country. As substantial, geographically-diverse end users of network and IT services nationwide, Ad Hoc members are uniquely qualified to provide a credible, unbiased, and informed perspective regarding the impact of Commission proceedings on customers in the communications marketplace.

Because Ad Hoc admits no wireline or wireless service providers as members and accepts no funding from them, Ad Hoc’s positions are not influenced by any commercial self-interest that would impose unnecessary regulatory constraints on competing service providers. Indeed, as high-volume purchasers of IT and communications products and services, Ad Hoc members have historically been among the first beneficiaries of the Commission’s de-regulatory efforts. As a consequence, Ad Hoc has consistently advocated for de-regulation in communications markets as soon as a market becomes competitive.

Ad Hoc members are also some of the country’s largest users of toll free numbers and therefore have a substantial stake in ensuring that toll free numbers continue to be a reliable resource for customer communications. Toll free numbers are



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a critical resource for Ad Hoc's members and other toll free customers who have made significant investments in customer service and customer outreach systems that depend upon reliable and secure toll free service and toll free number assignments. Over time, toll free customers and the callers seeking to connect with them have learned to depend on toll free service in a wide range of settings, from the credit card issuer seeking rapid notification of a stolen card to a pharmaceutical company responding to adverse drug reactions to a manufacturer educating purchasers about product safety. Thus, Ad Hoc members view the integrity of the toll free number assignment and activation process as a critical component of their businesses.

The Petition for Declaratory Ruling has exposed a problem of grave concern to Ad Hoc members: the use of toll free numbers by texting service providers to route text traffic without complying with the existing rules for toll free number management. Ad Hoc members were surprised to learn that texting service providers are able to text-enable a toll free number that may already be in working status for voice traffic without using the Responsible Organization ("Resp Org") system established by this Commission to ensure that the toll free customer is informed about the status of its numbers and retains control of the number regardless of changes in the underlying service provider. Enterprise customers count on their Resp Orgs to manage their toll free numbers; they have established internal processes and designated personnel who are responsible for – and knowledgeable regarding – their Resp Org, the Resp Org's procedures for contacting them, and their company procedures for responding when issues arise regarding their toll-free numbers.

Text-enabling (or making any other change to the status of a toll free number) without the knowledge of a customer's Resp Org creates substantial risks for enterprise customers. If service providers are allowed to text-enable toll free numbers without (1) the knowledge of the relevant Resp Org, (2) the notice the Resp Org provides to the toll free customer, or (3) the authorization the Resp Org obtains from the designated employee(s) responsible for managing the customer's toll free numbers, then opportunities for consumer fraud and confusion are greatly increased – consumers will associate a toll free number with the familiar toll free voice customer regardless of whether the consumer is using that number to place a voice call or send a text. And a consumer instructed to text information using a toll free number associated with a trusted business will (reasonably) assume that any information sent to that number is going to that business.

If texting service providers are permitted to circumvent the Resp Org notification/authorization process and rely on contacts with personnel other than the toll free customer's authorized representative, then the risk that toll free numbers will be used for nefarious purposes greatly increases. An individual or company could, for



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example, text-enable the toll free customer service number on the back of a credit card and ask consumers to text via that number sensitive personal and/or financial information associated with their card account. Consumers would reasonably assume that the text is legitimate because the toll free text number matches the toll free voice number they are accustomed to using. That scenario is not unlikely or far-fetched; enterprise customers are already concerned about the practice of “smishing,” i.e., “phishing” for sensitive information but using SMS communications rather than traditional email services.

Fortunately, the Commission has already exercised its plenary jurisdiction over the North American Numbering plan¹ to establish rules that protect the rights of toll free customers with respect to the management of their toll free numbers. Under those rules, the Service Management System Database (“SMS Database”) is the only administrative database system for toll free numbers. It is this system that enables Resp Orgs to “enter and amend the data about toll free numbers within their control.”² And Resp Orgs are the only entities chosen by toll free subscribers “to manage and administer”³ information regarding their toll free numbers in the SMS Database. Only Resp Orgs can “enter and amend” the records for routing traffic to toll free numbers and data regarding the toll free numbers.⁴

Some commenters opposing the Petition for Declaratory Ruling claim that a “core principle” followed by the industry when text-enabling a toll free number is subscriber control over the use of its toll free number.⁵ They insist that the industry has “developed guidelines” (though it “continues to evolve as needed”⁶) to ensure that toll free numbers are text-enabled only with proper authorization from the “true subscriber.”⁷ If that is the case, then the industry can have no legitimate objection to complying with the Commission’s rules which provide that the Resp Org of the “true subscriber” is the sole entity authorized to manage and administer the toll free customer’s numbers. The alternative processes described by these commenters for obtaining the toll free customer’s authorization before text-enabling a toll free number do not (indeed, cannot)

¹ See 47 U.S.C. § 251(e). See also *Kristin Brooks Hope Ctr. v. FCC*, 626 F.3d 586 (D.C. Cir. 2010), *Sprint Corp. v. FCC*, 331 F.3d 952 (D.C. Cir. 2003).

² 47 C.F.R. § 52.101(d).

³ 47 C.F.R. § 52.101(b).

⁴ 47 C.F.R. § 52.101(d).

⁵ Comments of Zipwhip (filed December 5, 2016) at 9-11.

⁶ Comments of AT&T Services, Inc. (filed December 5, 2016) at 2.

⁷ Zipwhip states that “[t]he true subscriber is the only individual that can provide clarity around the use and authorization of its number and this is a principle that Zipwhip respects and one that guides its processes for text-enabling toll free numbers.” Letter from Steven A. Augustino, Counsel to Zipwhip, Inc., to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 95-155, WT Dkt. No. 08-7 (filed February 23, 2017) at 6.



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ensure that the commenters contact the individual designated by the toll free customer to direct the management of its number. The alternative processes allow the commenters to rely on consent from other employees of the toll free customer, regardless of whether those employees are authorized by the toll free customer to direct the administration and management of the toll free customer's number resources. But following the procedures established already under the Commission's rules will ensure that the toll free customer's designated representative is contacted because the Resp Org is already equipped and required to do that.

In sum, to protect the interests of toll free customers and ensure that toll free numbers cannot be repurposed for other services without the knowledge and specific authorization of the toll free customer, the Commission should declare that service providers must comply with the existing rules governing the administration of toll free numbers and seek authorization from the subscriber's Resp Org before text-enabling a toll free number. Absent compliance with those rules, which ensure the integrity of the toll free number assignment system, the rights and responsibilities of toll free customers with respect to text-enabling their toll free numbers will be uncertain at best. In an uncertain environment, demand for text-enabling will be suppressed and the development of a market for the service will be impeded.

A declaratory ruling is the appropriate procedural vehicle for clarifying that service providers must comply with the existing rules for obtaining the toll free customer's authorization before text enabling a toll free number. As noted above, the Commission's existing rules already address the underlying issues: (i) the rules defining the SMS Database system apply to *all* "toll free numbers"⁸ regardless of the service for which they are used; (ii) toll free numbers are already defined by the rules as numbers for which the toll free customer pays the service provider's charges;⁹ (iii) numbers are toll free regardless of the type of service at issue (i.e., voice or text) ; and (iv) Resp Orgs are, by definition under the rules, the only entities permitted to manage and administer the appropriate records in the toll free SMS Database for the toll free subscriber.¹⁰ Therefore, the declaration requested by the petition is merely the application of the existing rules to existing toll free numbers or, at most, a reminder that the rules apply to toll free numbers, not just toll free voice service, and the toll free numbers associated with a toll free customer's text traffic are exactly the same numbers as those associated with the customer's voice traffic.

⁸ 47 C.F.R. § 52.101(d).

⁹ 47 C.F.R. § 52.101(f).

¹⁰ 47 C.F.R. § 52.101(b).



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Ad Hoc also supports Somos's request that the Commission clarify that the text-enabling of a toll free number must be recorded in Somos' SMS/800 database system. A robust and centralized clearinghouse for administering and managing toll free number assignments is the most efficient and cost-effective way to manage toll free number attributes such as text-enabling. Whether those attributes are stored in a database labeled a "Registry" or simply in a data field in the existing SMS/800 system, they are part of the information required to manage toll free number assignments and use.

For all of the reasons discussed above, Ad Hoc supports Somos's Petition for Declaratory Ruling regarding compliance with the Commission's existing rules for managing toll free number assignments.

Sincerely,

A handwritten signature in black ink that reads "Colleen Boothby". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Colleen Boothby
Sara Kuehnle

Counsel to the Ad Hoc Telecommunications
Users Committee